

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	September 3, 2017
Time of Incident:	3:04 am to 3:10 am
Location of Incident:	XXXX N. Halsted St., Chicago, IL
Date of COPA Notification:	September 5, 2017
Time of COPA Notification:	9:32 am

On September 3<sup>rd</sup>, 2017, between 3:04 am and 3:10 am, Captain A and Sergeant A were patrolling the area near XXXX N. Halsted St., Chicago. Captain A and Sergeant A turned onto N. Halsted from W. Newport Ave, and they rode southbound on N. Halsted St. where there was a group of approximately five individuals standing on the sidewalk near XXXX N. Halsted St. Some of the individuals were drinking from clear plastic cups. Captain A and Sergeant A rode next to the group and instructed the group to empty the contents of their cups. One of the individuals, Subject 1, turned away from Captain A and drank from his cup after being instructed to pour out the cup. Captain A then made contact with Subject 1's shoulder. Captain A's contact made Subject 1 spill his drink. Subject 1 was then issued an Administrative Notice of Ordinance Violation (ANOV) for drinking on a public way. The group of individuals walked away from XXXX N. Halsted St., and the officers rode away without further incident. Captain A initiated the complaint against himself alleging possible excessive force.

**II. INVOLVED PARTIES**

Involved Officer #1:	Captain A, Star # XX, Employee ID # XXXXX, Date of Appointment: XX/XX/XXXX, Captain of Police, District XXX, DOB: XX/XX/XXXX, Male, White
Involved Officer #2:	Sergeant A, Star # XXXX, Employee ID # XXXXXX, Date of Appointment: XX/XX/XXXX, Sergeant of Police, District XXX, DOB: XX/XX/XXXX, Male, White
Subject #1:	Subject 1, DOB: XX/XX/XXXX, Male, Black

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

### III. ALLEGATIONS

Officer	Allegation	Finding
Captain A	<p>1. It is alleged that on September 9th, 2017, between approximately 03:04 A.M. and 3:10 A.M., at XXXX N. Halsted St., Chicago IL, Captain A made unnecessary contact with Subject 1's body in violation of Rule 8 and Rule 9 of the Chicago Police Department Rules of Conduct.</p>	Exonerated

### IV. APPLICABLE RULES AND LAWS

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#### Rules

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1. **Rule 8** – Disrespect to or maltreatment of any person, while on or off duty.
  2. **Rule 9** – Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
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#### General Orders

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1. **GO 01-01 Mission Statement and Core Values**
  2. **GO 03-02 Use of Force**
  3. **GO 03-02-01 Force Options**
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#### State Laws

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1. **Municipal Code of Chicago § 8-4-030 a. (1)** - It shall be unlawful for any person to drink any alcoholic liquor as defined by law on any public way or in or about any motor vehicle upon a public way in the city.
2. **Illinois Compiled Statutes Chapter 720, Article 5, Section 5, Section 7-5**

### V. INVESTIGATION<sup>2</sup>

#### a. Interviews

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

Sergeant A, Star # XXXX gave a **digitally recorded interview** to COPA on February 6<sup>th</sup>, 2018. In his statement to COPA, Sergeant A stated he was on duty on September 3<sup>rd</sup>, 2017, at approximately 3:00 am. Sergeant A stated he was working on bicycles with the district executive officer, Captain A. Sergeant A stated he has known Captain A for almost a year, and he works with Captain A on and off, and he sees Captain A often. Sergeant A stated he and Captain A arrived at XXXX N. Halsted St. on bicycles and that area had been a source of numerous complaints in the past and is still an area of special attention. Sergeant A further stated that it was common for officers to check the area around XXXX N. Halsted St.

Sergeant A stated he observed a group of individuals, possibly four to five individuals, with opaque cups standing in a public way. Sergeant A stated he observed brown liquid consistent with alcohol in the cups. Sergeant A stated when he and Captain A got closer to the individuals he smelled alcohol. Sergeant A stated when he and Captain A arrived near the group they gave the group a command to stop drinking and pour out the liquid in the cups. Sergeant A stated after being instructed to stop drinking and pour out the liquid, one individual, Subject 1, refused to pour out the liquid in the cup and instead took a sip from the cup. Sergeant A stated that after refusing to pour out the liquid in his cup and taking a sip from it, Captain A attempted to stop Subject 1 from drinking the contents of his cup, and while still on his bicycle, Captain A pushed Subject 1 to stop him from drinking from the cup.

Sergeant A stated that liquid spilled from the cup onto Subject 1. Sergeant A stated Subject 1 was upset he had alcohol on his person, but another individual became more agitated with the officers. Sergeant A stated the agitated individual identified himself as an adjunct professor at University and was recording the officers with his cell phone. Sergeant A further stated that the agitated individual appeared intoxicated and believed the officers' actions were wrong. Sergeant A stated that Subject 1 signed an ANOV for Drinking Alcohol on the Public Way, 8-4-030(a). Sergeant A then stated that after the agitated individual complained to the officers and believed Captain A's actions were excessive, Captain A agreed to initiate a complaint on himself and he relayed that to the agitated individual. Sergeant A stated he did not know Subject 1 prior to this incident.<sup>3</sup>

Captain A, Star # XX gave a **digitally recorded interview** to COPA on February 8<sup>th</sup>, 2018. In his statement, Captain A stated he was on duty, working beat XXXXX on September 3<sup>rd</sup>, 2017, at approximately 3:00 am. Captain A stated he was working with Sergeant A that morning and he has known Sergeant A for approximately a year. Captain A said he and Sergeant A were patrolling the area on bicycle around XXXX N. Halsted St., Chicago, which has been a problem area involving public drinking and disturbances at early hours in the morning. Captain A stated when he and Sergeant A rode past the area, he observed a group of five to seven individuals drinking in the parking lot. Captain A stated when he got closer to the group, he observed Subject 1 drinking an amber liquid through a clear cup, which based on Captain A's knowledge, he believed to be alcohol. Captain A stated he smelled the odor of alcohol on Subject 1's breath and the amber liquid appeared to be alcohol. Captain A further stated that when he and Sergeant A approached the group, he gave Subject 1 an opportunity to pour the liquid out of the cup, as he believed Subject 1 was drinking on the public way. Captain A stated that after asking Subject 1 to pour out the contents of his cup, Subject 1 turned away and started drinking out of his cup again, and thus continuing to violate Municipal Order 8-4-030(a). Captain A stated after Subject 1 drank from his cup, he reached out to detain Subject 1, as he refused to empty his cup.

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<sup>3</sup> Attachment 15

Captain A stated Subject 1 would receive an ANOV for drinking on the public way as he continued to violate Municipal Order 8-4-030(a). Captain A further stated that the ANOV given was an opportunity for Subject 1 to avoid being arrested, as drinking in a public way is an arrestable offense. Captain A relayed that when he reached out to detain Subject 1, he accidentally contacted Subject 1's left shoulder, which caused Subject 1 to spill his drink. Captain A stated he was still on his bicycle, with the bicycle between his legs when he tried to detain Subject 1. Captain A stated members of the group took out their cell phones and possibly recorded him and Sergeant A. Captain A stated an individual, who identified himself as an adjunct professor at University, talked to him and started crying, told Captain A how difficult his job was, and then left. Captain A stated the adjunct professor and all members of the group appeared to be intoxicated.<sup>4</sup>

### b. Digital Evidence

**POD #XXXX Surveillance Footage** captures the alleged misconduct. The POD is located at XXXX N. Halsted St., and faces north bound on Halsted Street.<sup>5</sup>

### c. Documentary Evidence

An **Initiation Report** for Log #1086601 from Captain A provides a summary of the alleged misconduct. The report shows Captain A as both the individual creating the report and also the accused Department member. The Report lists Subject 1 as the victim, and Sergeant A as a witness to the alleged misconduct. The summary of the report states,

R/Captain along with Sergeant A #XXXX Beat XXXX were on patrol in the area of XXXX N Halsted when R/Captain observed subject SUBJECT 1 drinking amber liquid from a plastic cup on the sidewalk at the location. As R/Captain conducted investigation into the violation, he instructed SUBJECT 1 (who had the odor of alcoholic beverage on his breath) to pour the liquid out. SUBJECT 1 turned away from Captain A, who was standing (still on CPD Bike) and attempted to drink the remainder of the cup. R/Captain reached out with his right hand suddenly attempting to stop the SUBJECT 1's actions and made contact with the rear of SUBJECT 1's left shoulder causing the contents of the cup to spill out. SUBJECT 1 alleged that R/Captains actions were excessive. ANOV issued by Captain A for DOPW. R/Captain ensured all proper notification have been made.<sup>6</sup>

An **Administrative Notice of Ordinance Violation** (ANOV) Event # XXXXX further details the incident. The named respondent to the ANOV is Subject 1. The ANOV is issued for one count of Drinking Alcohol On The Public Way, 8-4-030(a). The ANOV further states "The above was observed drinking alcohol on the public way w amber colored beverage from clear plastic cup." The ANOV states the violation occurred at XXXX N Halsted St. on September 3<sup>rd</sup>, 2017 at 3:40 am. The ANOV lists Captain A as the Complainant.<sup>7</sup>

<sup>4</sup> Attachment 19

<sup>5</sup> Attachment 13

<sup>6</sup> Attachment 5

<sup>7</sup> Attachment 10

## VI. ANALYSIS

COPA's investigation revealed that Captain A initiated a complaint against himself for excessive force when an individual who identified himself as an adjunct professor at University believed Captain A's actions amounted to excessive force. COPA's burden is based on the preponderance of the evidence.

Both Captain A and Sergeant A stated in their interviews with COPA that Subject 1 was violating Municipal Code of Chicago § 8-4-030a by drinking in a public way. Both officers also stated in their interviews with COPA that they could smell alcohol when they approached Subject 1 and the group. The POD video footage further corroborates the officers' statements in that the individual identified as Subject 1 can be seen drinking from his cup while he remains on the sidewalk near XXXX N. Halsted St. Captain A stated he gave Subject 1 an opportunity to pour out the alcohol in his cup, but rather than pouring it out, Subject 1 turned from Captain A and drank the alcohol in his cup. Captain A stated that after refusing to comply with his order to pour out the alcohol, Captain A tried to grab and detain Subject 1, as he was disobeying the lawful order to empty his cup. Sergeant A and Captain A stated Captain A was on his bicycle when he reached out to detain Subject 1. The POD video footage shows Captain A still on his bicycle when he reached out to detain Subject 1. Captain A further stated that he placed his hand against Subject 1's shoulder but did not detain him as Subject 1 pulled away. Based on the officers' statements and POD video footage that captured the incident, it is more likely than not that Captain A attempted to grab Subject 1 and detain him, but was not properly balanced as he was still on his bicycle.

The evidence suggests Captain A accidentally leaned onto Subject 1, with Captain A's right arm extended against Subject 1's left shoulder, which caused Subject 1 to be pushed away from Captain A and Subject 1 spill his drink. It is likely that Captain A's contact was accidentally more forceful than intended, as Captain A likely intended to detain Subject 1, rather than push him away. Furthermore, Captain A had a lawful purpose in making contact with Subject 1's body, and that was to stop him from violating Municipal Order 8-4-030(a). It is objectively reasonable for an officer to try and stop an individual from continuing to break the law, especially when the violation is occurring feet away from the officer. Captain A's attempt to grab Subject 1's shoulder to hold and detain him was not a use of force as codified in the CPD Guidelines.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

<b>Allegation</b>	<b>Finding</b>
<b>Captain A</b> 1. It is alleged that on September 9th, 2017, between approximately 03:04 A.M. and 3:10 A.M., at XXXX N. Halsted St., Chicago, IL, you made unnecessary contact with Subject 1's body.	Exonerated

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Approved:

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COPA Deputy Chief Administrator  
*Deputy Chief Administrator*

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Date

**Appendix A**

## Assigned Investigative Staff

<b>Squad #:</b>	XX
<b>Investigator:</b>	COPA Investigator
<b>Supervising Investigator:</b>	COPA Supervising Investigator
<b>Deputy Chief Administrator:</b>	COPA Deputy Chief Administrator